

MUR # 6831

William D. Haney

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NJ, 08088

May 7, 2014

Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20462

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FEDERAL ELECTION  
COMMISSION  
2014 MAY 27 AM 11:26  
OFFICE OF GENERAL  
COUNSEL

**Complaint Against Tom MacArthur for Congress, Inc., Ronald Gravino, Treasurer**

Dear Madam/Sir:

This letter constitutes my formal complaint against Tom MacArthur for Congress, Inc., Ronald Gravino, Treasurer, for violations of 11 C.F.R. 110.11 in connection with a false, misleading, negative campaign ad it aired against Mr. MacArthur's opponent, Steve Lonegan. As of the date of this complaint, a copy of the ad in question is available at [https://www.youtube.com/watch?v=qsQUV\\_hh6gQ](https://www.youtube.com/watch?v=qsQUV_hh6gQ).

The Federal Election Campaign Act requires Mr. MacArthur's ad to include two disclaimers. The first, the "stand by your ad" disclaimer, requires the ad to include an audio statement by Mr. MacArthur identifying himself and stating that he approved the message. 11 C.F.R. 110.11(c)(3)(ii). That disclaimer must be accompanied by either an unobscured, full screen video clip of Mr. MacArthur making the statement, or a clearly identifiable image of him as his voice-over statement is heard. 11 C.F.R. § 110.11(c)(3)(ii)(A)-(B).

The second disclaimer is a two-part visual disclaimer. 11 C.F.R. § 110.11(b)(1) requires this disclaimer to identify that Tom MacArthur for Congress, Inc. paid for the ad. 11 C.F.R. § 110.11(c)(3)(iii) further requires this disclaimer to include a statement similar to Mr. MacArthur's audio statement that he approved the message. As the following screenshot of the ad demonstrates, **the visual disclaimer does not include that information:**



Section 110.11 requires, in relevant part, as follows:

§110.11 Communications; advertising; disclaimers (2 U.S.C. 441d).

\* \* \*

(b) *General content requirements.* A disclaimer . . . must contain the following information:

(1) If the communication . . . is paid for and authorized by a candidate, an authorized committee of a candidate, or an agent of either of the foregoing, **the disclaimer must clearly state that the communication has been paid for by the authorized political committee;**

\* \* \*

(c) Disclaimer specifications

\* \* \*

(3) *Specific requirements for radio and television communications authorized by candidates.* In addition to the general requirements of paragraphs (b) and (c) . . . a disclaimer that is authorized or paid for by a candidate or the authorized committee of a candidate . . . must comply with the following:

\* \* \*

(ii) A communication transmitted through television or through any broadcast, cable or satellite transmission, must include a **statement that identifies the candidate and states that he or she has approved the communication.**

\*\*\*

(iii) A communication transmitted through television or through any broadcast, cable or satellite transmission, **also must include a similar statement that must appear in clearly readable writing at the end of the television communication.**

Thus, Mr. MacArthur's ad had to include the following statements:

1. A written statement that Tom MacArthur for Congress, Inc. paid for the ad. 11 C.F.R. 110.11(b)(1). The ad met this requirement.
2. "In addition to" (1), above:

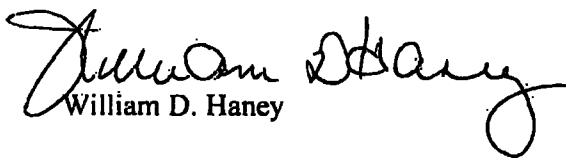
- a. An audio statement in which Mr. MacArthur identifies himself and states that he approved the ad. 11 C.F.R. § 110.11(c)(3)(ii). The ad met this requirement (hidden as it is at the 20 second mark).

- b. "Also"—*i.e.*, in addition to (a), above—a "similar statement" in writing at the end of the ad. 11 C.F.R. § 110.11(c)(3)(iii).<sup>1</sup> **The ad fails to meet this requirement, because it fails to identify in the visual disclaimer that Mr. MacArthur authorized the message.**

To the extent that Mr. MacArthur's authorization could be implied from the audio disclaimer at the 20 second mark, that statement is still insufficient to meet the requirement of 11 C.F.R. § 110.11(c)(3)(iii) because it does not appear at the end of the ad.

Thank you in advance for your consideration of this complaint. Please investigate it and fine Tom MacArthur for Congress, Inc., Ronald Gravino, Treasurer, for its clear violation of the disclaimer requirement of federal law. Pursuant to the Commission's requirements, I am enclosing three copies of this Complaint, and I affirm that the statements in this letter are true, complete and accurate to the best of my knowledge, information and belief.

Respectfully submitted,

  
William D. Haney

STATE OF NEW JERSEY )

<sup>1</sup> Similar to what? Similar to the audio-visual disclaimer required by 11 C.F.R. § 110.11(c)(3)(ii).

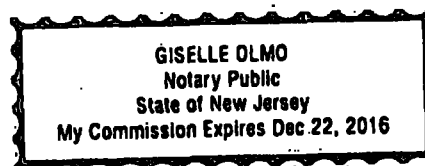
CITY/COUNTY OF Burlington )

to-wit:

Subscribed and sworn before me, a Notary Public of and for the above-stated jurisdiction,  
on May 7, 2014, by William D. Haney.

Giselle Olmo  
Notary Public

My commission expires: 12/22/2016



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